

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2779 of 1984

WITH

SPECIAL CIVIL APPLICATION No 2781 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

AHMEDABAD MUNICIPAL CORPN.

Versus

N A GAJJAR

Appearance: (In both SCAs)

MR DV MEHTA FOR MR BP TANNA for Petitioner

MR PB MAJMUDAR for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 03/12/96

ORAL JUDGMENT

Both these Special Civil Applications proceed on the common facts and grounds and as such the same are being taken for hearing together and are being disposed of under this common order.

2. The facts in brief, necessary for disposal of these petitions are taken from Special Civil Applications

No.2779 of 1984. The respondents in these Special Civil Application are the employees of the Petitioner-Municipal Corporation of Ahmedabad. The respondents have filed the Recovery Application No.2046 of 1974 before the Labour Court, Ahmedabad, claiming thereunder the amount in respect of the overtime work done by them amounting to Rs.39,969.95, together with further relief as deemed fit and proper. This application has been filed by the respondents under Section 33(2) of the Industrial Disputes Act, 1947. Under the impugned order dated 15.12.83 made by the presiding Officer of the Labour Court, Ahmedabad, in the aforesaid claim application, the claim of the respondents has been allowed. Hence this Special Civil Application by the petitioner before this Court. Similar claim has been made by the respondent in Special Civil Application No.2781 of 1984 and that too has been allowed under the aforesaid order.

3. Relying on the decision of Supreme Court in the case of Municipal corporation of Delhi v. Ganesh Razak And Anr., reported in (1995)1 SCC 235, the learned counsel for the petitioner contended that the Labour Court has no jurisdiction to pass the order regarding the claim of over time work done by the respondents under Section 33(2) of the I.D. Act, 1947. The order made by the Labour Court impugned in these Special Civil Applications is without jurisdiction.

4. On the other hand, the learned counsel for the respondents supported the order passed by the Labour Court.

5. I have given my thoughtful considerations to the submissions made by the learned counsel for the parties.

6. Under Section 33(2) of the I.D.Act, 1947, the Labour Court has no jurisdiction to adjudicate dispute of entitlement or the basis of claim of the workmen. Its jurisdiction does lie only to the extent of interpreting the Award or settlement on which the claim is based. The jurisdiction of the Labour Court under Section 33(2) of the aforesaid Act is like that of Executing Court which executes decree passed by the Civil Court. It is not in dispute that no prior adjudication or recognition of disputed claim of the respondents-workmen, i.e. the payment for the over time work alleged to be done. The proceedings for computation of the alleged amount of over time work done by the respondents is not maintainable. It is not the case of the respondents that the petitioner has admitted the entitlement and recognized the claim of the respondents workmen regarding payment of the alleged

overtime work done by them. In the present case the claim made by the respondents before the Labour Court has been contested by the petitioner-Corporation on various grounds. The petitioner in this petition has submitted its written statement filed in reply to the application filed by the respondent-workmen under Section 33(2) of the I.D. Act, 1947 before the Labour Court. In para-2 of the said statement, the petitioner has raised a preliminary contention that the claim advanced in the application is not maintainable under the aforesaid Act, but that jurisdictional issue has not been decided by the Labour Court and it has proceeded to compute the claim of over time work done by the respondents.

7. In the result, both these Special Civil Applications succeed and the same are allowed. The order of the Labour Court, dated 15.12.83, passed in Recovery Applications No.2046 of 1974 and 1354 of 1974 are quashed and set aside. Rule made absolute in aforesaid terms with no order as to costs.

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(sunil)